

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JOSE R. GUERRERO  
State Bar No. 97276  
3 Supervising Deputy Attorney General  
CATHERINE E. SANTILLAN  
4 Senior Legal Analyst  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5579  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 1H 2010 243

11 **DONNA MARIE GEORGE**  
12 **1399 Dale Avenue**  
13 **Arroyo Grande, CA 93240**

**A C C U S A T I O N**

14 **Respiratory Care Practitioner No. 23891**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Respiratory Care Board of California, Department of Consumer  
21 Affairs.

22 2. On or about September 14, 2004, the Respiratory Care Board issued Respiratory Care  
23 Practitioner License Number 23891 to Donna Marie George (Respondent). The Respiratory Care  
24 Practitioner license expired on October 5, 2008, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Respiratory Care Board (Board), Department of  
27 Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.

1           4.     Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
2     surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
3     disciplinary action during the period within which the license may be renewed, restored, reissued  
4     or reinstated.

5           5.     Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter  
6     referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory  
7     Care Practice Act]."

8           6.     Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke  
9     licenses to practice respiratory care as provided in this chapter."

10          7.     Section 3750 of the Code states:  
11     "The board may order the denial, suspension or revocation of, or the imposition of  
12     probationary conditions upon, a license issued under this chapter, for any of the following causes:

13                 "(d) Conviction of a crime that substantially relates to the qualifications,  
14     functions, or duties of a respiratory care practitioner. The record of conviction or a  
15     certified copy thereof shall be conclusive evidence of the conviction."

16                 "(g) Conviction of a violation of any of the provisions of this chapter or of any  
17     provision of Division 2 (commencing with Section 500), or violating, or attempting to  
18     violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring  
19     to violate any provision or term of this chapter or of any provision of Division 2  
20     (commencing with Section 500)."

21                 "(j) The commission of any fraudulent, dishonest, or corrupt act which is  
22     substantially related to the qualifications, functions, or duties of a respiratory care  
23     practitioner."

24          8.     Section 3752 of the Code states:

25     "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
26     charge of any offense which substantially relates to the qualifications, functions, or duties of a  
27     respiratory care practitioner is deemed to be a conviction within the meaning of this article. The  
28     board shall order the license suspended or revoked, or may decline to issue a license, when the

1 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when  
2 an order granting probation is made suspending the imposition of sentence, irrespective of a  
3 subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or  
4 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
5 dismissing the accusation, information, or indictment."

6 9. Section 3753.5, subdivision (a) of the Code states:

7 "In any order issued in resolution of a disciplinary proceeding before the board, the board or  
8 the administrative law judge may direct any practitioner or applicant found to have committed a  
9 violation or violations of law or any term and condition of board probation to pay to the board a  
10 sum not to exceed the costs of the investigation and prosecution of the case. A certified copy of  
11 the actual costs, or a good faith estimate of costs where actual costs are not available, signed by  
12 the official custodian of the record of his or her designated representative shall be prima facie  
13 evidence of the actual costs of the investigation and prosecution of the case."

14 10. California Code of Regulations, title 16, section 1399.370, states:

15 "For the purposes of denial, suspension, or revocation of a license, a crime or act shall be  
16 considered to be substantially related to the qualifications, functions or duties of a respiratory care  
17 practitioner, if it evidences present or potential unfitness of a licensee to perform the functions  
18 authorized by his or her license or in a manner inconsistent with the public health, safety, or  
19 welfare. Such crimes or acts shall include but not be limited to those involving the following:

20 "(a) Violating or attempting to violate, directly or indirectly, or assisting or  
21 abetting the violation of or conspiring to violate any provision or term of the Act.

22 "(b) Conviction of a crime involving fiscal dishonesty, theft, or larceny.

### 23 COST RECOVERY

24 11. Section 3753.5, subdivision (a) of the Code states:

25 "In any order issued in resolution of a disciplinary proceeding before the board, the board or  
26 the administrative law judge may direct any practitioner or applicant found to have committed a  
27 violation or violations of law to pay to the board a sum not to exceed the costs of the investigation  
28 and prosecution of the case."

12. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

13. Section 3753.1 of the Code states:

"(a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation. "

FIRST CAUSE FOR DISCIPLINE

(Conviction of a substantially-related crime)

14. Respondent is subject to disciplinary action under code sections 3750(d), 3752, CCR 1399.370(a) and (b) in that she was convicted of violating Penal Code section 72 [presenting a false claim.] The circumstances are as follows:

15. As part of Respondent's application for general assistance (GA) benefits, she was required to complete a Request for Medical Evaluation form completed by a physician to determine her eligibility for GA benefits. Respondent's case manager offered to fax the form to respondent's doctor, but on or about November 2, 2007, Respondent told her case manager that she would take the form to her doctor's office, ask him to complete the form and sign it, and Respondent would return the completed form the same day as she was very anxious to obtain GA cash benefits.

16. On November 2, 2007, Respondent provided a completed form to her case manager, which appeared to be signed and dated by Dr. Tony A. Carey, D.O., business address of 422 Center Street, Taft, California. The case manager reviewed the form and noted discrepancies. Specifically, she had given respondent the form at 10:45 a.m. Respondent returned a signed, completed form at 11:08 a.m. the same day. The case manager determined that respondent would not have been able to drive from San Luis Obispo, California to Taft, California, see Dr. Carey in Taft, have Dr. Carey complete and sign the form and return it to San Luis Obispo, California in 23 minutes. The form contained numerous discrepancies, including that the Release section of

1 the original document differed from the carbonized back page in respondent's case file, in that the  
2 date respondent signed the form was "10/29/07," four days before the date that the case manager  
3 had given respondent the form on 11/2/07. It was also noted that the date that Dr. Carey signed  
4 the Physician's Statement portion of the document was "10/30/07," three days earlier than the  
5 case manager's signature and date of 11/2/07.

6 17. Based on these discrepancies, the case manager telephoned Dr. Carey's office to  
7 verify the necessary facts for eligibility determination and reached an exchange, which stated that  
8 his office was closed at 10:00 a.m. on Friday, November 2, 2007 and would not open again until  
9 Monday, November 5, 2007 at 10:00 a.m. In light of the phone call, it appeared to the case  
10 manager that Respondent could not have asked Dr. Carey to complete the form since his office  
11 was closed. Based on all the discrepancies noted on the form, it appeared to the case manager  
12 that Respondent may have altered the form and possibly forged Dr. Carey's signature.

13 18. An investigation was initiated, and on November 6, 2007, a copy of the form was  
14 faxed to Dr. Carey. He stated that he did not see Respondent in his office on October 30, 2007,  
15 and did not complete, sign or date the medical evaluation form which she had submitted.

16 19. On November 15, 2007, Respondent was interviewed by an Investigating Officer.  
17 She admitted that she altered the Medical Evaluation form, forged Dr. Carey's signature on the  
18 document, and then submitted the falsified document in her application for GA benefits to the San  
19 Luis Obispo County Department of Social Services.

20 20. On or about December 1, 2008, Respondent was convicted on her plea of nolo  
21 contendere to a misdemeanor count of violating Penal Code section 72 [presenting a false claim].  
22 On or about January 26, 2009, she was sentenced to two years probation, ordered not to use or  
23 possess drugs or alcohol, pay fines, and comply with the child welfare services case plan.

24 21. Therefore, Respondent's license is subject to discipline based on her substantially-  
25 related conviction in violation of code sections 3750(d), 3752, CCR 1399.370(a) and (b).

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SECOND CAUSE FOR DISCIPLINE

(Dishonest Act)

22. Paragraphs 13 through 18 are incorporated herein.

23. Respondent's acts of altering the Medical Evaluation form, forging Dr. Carey's signature on the document, and submitting the falsified document in her application for GA benefits to the San Luis Obispo County Department of Social Services constitutes a dishonest act in violation of code section 3750(j) and is cause to discipline her license.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 1. Revoking or suspending Respiratory Care Practitioner Number 23891, issued to Donna Marie George;
- 2. Ordering Donna Marie George to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: October 5, 2010

Original Signed by Liane Freels for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

SF2010202030  
20336767.doc